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MACCORD MASON PLLC  
300 N. GREENE STREET, SUITE 1600  
P. O. BOX 2974  
GREENSBORO, NC 27402

EXAMINER
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MORGAN, ROBERT W

ART UNIT	PAPER NUMBER
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3626

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/852,358

Applicant(s)

RODRIGUEZ-CUE, DOMINGO

Examiner

Robert W. Morgan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 14, 17, 26, 31, 32, 36 and 42-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 14, 17, 26, 31, 32, 36, 42-46 and 42-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the Applicant's argument that the Examiner has cited pages of the Practice Today literature that are not prior art. The Examiner has withdrawn the finality filed 11/30/06 and is re-submitting the Final Rejection with the correct pages of the Practice Today literature. Claims 1-3, 14, 17, 26, 31, 32, 36, 42-46 and 42-50 are presented for examination.

### ***Claim Objections***

2. The claim identifier for claims 4-6, 8-13, 15, 16, 18-20, 22-25, 27-30, 33-35, 37 and 38 should indicate "withdrawn" and not "original". The claim objection to claim 45 has been withdrawn by the Examiner based on the changes made by Applicant to the claim.

Claim 36 is objected to because of the following informalities: line 3 of claim 36 reads "assessment, plan" should read "assessment plan". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 14, 17, 26, 31, 32, 36, 42-46 and 42-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,544,173 to West et al. and U.S. Patent No. 6,375,614 to Braun et al. in view of [www.legacypress.com](http://www.legacypress.com) (hereinafter "Practice Today").

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As per claim 1, West et al. teaches a system for providing wireless, paperless medical care, comprising:

--the claimed server running software connected to a network, which provides connection for communication, including transmitting and receiving information and data electronically with at least one portable computer running software is met by network (30, Fig. 2) that includes at least one server system (50, Fig. 2) connected to the wireless portion of the network (see: column 9, lines 42-45). In addition, the network (30, Fig. 2) may include one or more wireless communication devices referred to herein as clinician terminal (52, Fig. 2), which may be a variety of different form such as Personal Digital Assistant, Internet Protocol telephone, portable computer, etc. (see: column 10, lines 4-11 and column 7, lines 64-67); and

--the claimed server further being connected to clinical equipment for receiving data including test results from the clinical equipment is met by the patient monitor (22b, Fig. 6) that receives vital signs data and also includes an output port such as a RS-232 for connection to the terminal server (42, Fig. 6) (see: column 13, lines 16-34).

West et al. fails to teach the claimed providing real-time point-of-care laboratory testing, data capture and entry, treatment of patients, and billing.

Braun et al. teaches a system for providing comprehensive physiological data collection that includes software used to support communication with other device using TCP/IP protocol over a variety of different hardware media including RS-232 (see: column 5, lines 40-43). In addition, Braun et al. teaches software running on each workstation that provides both the display and analysis of features for real-time and post-acquisition evaluation of measured physiological signals (see: column 5, lines 45-49).

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One of ordinary skill in the art at the time the invention was made would have found it obvious to include real time evaluation of information as taught by Braun et al. within the patient monitoring system as taught by West et al. with the motivation of providing physiological comprehensive monitoring in portable and remote setting that is less costly and more flexible (see: Braun et al.: column 1, lines 19-24).

West et al. and Braun et al. fails to teach the claimed software providing a note field for entry of medical notes and billing information enabling bill generation by a clinician at the time services are rendered.

Practice Today Office Management Software System is for 95/98/00/NT and is a premier software system for physicians, dentists, and chiropractors that manage patient data, electronic medical records, patient billing, insurance claims, and much, much more (see: page 1, paragraph 1). In addition, Practice Today discloses an electronic medical record for a patient that includes at least one template for patient charts (see: page 4). Furthermore, Practice Today teaches instantly billing from the patient's note, which means merely highlighting the procedure and click "Bill" and it is done (see: page 2, paragraph 5).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the electronic medical record including a template for patient charts as taught by Practice Today with the system as taught by West et al. and Braun et al. with the motivation of creating a simple software solution to medical office management that is cost-effective, reliable, and comprehensive while easy to use by the medical, dental, and chiropractic industry.

As per claim 2, West et al. teaches the claimed clinical equipment is integrated with server via a universal equipment-integrating device. This limitation is met by the patient monitor (22b, Fig. 6) that receives vital signs data and also includes an output port such as a RS-232 for connection to the terminal server (42, Fig. 6) (see: column 13, lines 16-34).

As per claim 3, West et al. and Braun et al. teach a network (30, Fig. 2) that may include one or more wireless communication devices referred to herein as clinician terminal (52, Fig. 2), which may be a variety of different form such as Personal Digital Assistant, Internet Protocol telephone, portable computer, etc. (see: West et al.: column 10, lines 4-11 and column 7, lines 64-67). In addition, West et al. and Braun et al. teach software running on each workstation that provides both the display and analysis of features for real-time and post-acquisition evaluation of measured physiological signals (see: Braun et al.: column 5, lines 45-49).

West et al. and Braun et al. teach the claimed software includes at least one template for patient charts.

Practice Today Office Management Software System is for 95/98/00/NT and is a premier software system for physicians, dentists, and chiropractors that manage patient data, electronic medical records, patient billing, insurance claims, and much, much more (see: page 1, paragraph 1). In addition, Practice Today discloses an electronic medical record for a patient that includes at least one template for patient charts (see: page 4).

The motivation of combining the teachings of Practice Today with the system as taught by West et al. and Braun et al. are discussed in rejection of claim 1, and incorporated herein.

As per claim 14, Practice Today teaches the claimed at least one template automatic integration of electronic medical records and pass through billing with code linking. The feature

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is met by integrated collection systems that allow the user to define custom procedure codes and fee schedule (see: page 5 and page 6).

As per claim 17, West et al. teaches the claimed server is connected to a local area network. This limitation is met by network (30, Fig. 2) that includes at least one server system (50, Fig. 2) connected to the wireless portion of the network (see: column 9, lines 42-45).

As per claim 26, West et al. teaches the claimed server software provides security and wherein the access to information input and output requires login. The network meets this feature, which is connected Internet via firewall (62, Fig. 3) or other suitable security device to restrict access (see: column 10, lines 64-67).

As per claim 31, West et al. and Braun et al. teach software running on each workstation that provides both the display and analysis of features for real-time and post-acquisition evaluation of measured physiological signals (see: Braun et al.: column 5, lines 45-49).

West et al. and Braun et al. fail to teach insurance processing.

Practice Today Office Management Software System is for 95/98/00/NT and is a premier software system for physicians, dentists, and chiropractors that manage patient data, electronic medical records, patient billing, insurance claims, and much, much more (see: page 1, paragraph 1 and page 7).

The motivation of combining the teachings of Practice Today with the system as taught by West et al. and Braun et al. are discussed in rejection of claim 1, and incorporated herein.

As per claim 32, Practice Today teaches the claimed insurance processing includes pass-through-billing. The feature is met by integrated collection systems that allow the user to define custom procedure codes and fee schedule (see: page 5 and page 6).

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As per claim 36, West et al. and Braun et al. teach that each patient monitor (22b, Fig. 6) includes a controller (100, Fig. 7), which performs various functions such as receiving and analyzing vital signs data, presenting information to a user, etc... (see: Braun et al.: column 13, lines 41-62). The Examiner considers the presenting information to the users to include an assessment plan.

West et al. and Braun et al. fail to teach communication with the patient.

Practice Today teaches a word processing function for producing letter, list, and label to merge with patient data (see: page 8 and page 10).

The motivation of combining the teachings of Practice Today with the system as taught by West et al. and Braun et al. are discussed in rejection of claim 1, and incorporated herein.

As per claim 44, West et al. teaches the claimed communication between the server and the portable computer is over a wired network. This feature is met by the first portion (46, Fig. 2) connected to central station (24, Fig. 2), database system (40, Fig. 2) terminal server (42, Fig. 2) and the other components of network (30, Fig. 2) which are configured for wired communication via physical data transport structure (32, Fig. 2) (see: column 9, lines 17-28). In addition West et al. teaches a network (30, Fig. 2) that includes at least one server system (50, Fig. 2) connected to the wireless portion of the network (see: column 9, lines 42-45). In addition, the network (30, Fig. 2) may include one or more wireless communication devices referred to herein as clinician terminal (52, Fig. 2), which may be a variety of different form such as Personal Digital Assistant, Internet Protocol telephone, portable computer, etc. (see: column 10, lines 4-11 and column 7, lines 64-67).



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As per claim 45, West et al. teaches the claimed communication between the server and the portable computer is over a wireless network. This feature is met by network (30, Fig. 2) that includes at least one server system (50, Fig. 2) connected to the wireless portion of the network (see: column 9, lines 42-45). In addition, the network (30, Fig. 2) may include one or more wireless communication devices referred to herein as clinician terminal (52, Fig. 2), which may be a variety of different form such as Personal Digital Assistant, Internet Protocol telephone, portable computer, etc. (see: column 10, lines 4-11 and column 7, lines 64-67).

As per claim 46, West et al. and Braun et al. teach software running on each workstation that provides both the display and analysis of features for real-time and post-acquisition evaluation of measured physiological signals (see: Braun et al.: column 5, lines 45-49).

West et al. and Braun et al. fail to teach:

--the claimed primary patient triage that includes an initial encounter, the software enabling entry of initial encounter information into a patient electronic medical records, which are stored on a server and accessible via at least one remote computer;

--the claimed secondary triage that includes a secondary encounter, the software enabling entry of secondary encounter information into the patient's electronic medical records;

--the claimed clinical encounter with at least one medical care provider, the software enabling entry of clinical encounter information including clinical equipment test results into the patient's electronic medical records;

--the claimed software enabling interpretation and management of the patient's medical records;

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--the claimed entry of a treatment plan formulation into the patient's electronic medical records; and

--the claimed software enabling pass-through billing and insurance processing.

Practice Today teaches software including:

--the claimed primary patient triage that includes an initial encounter, the software enabling entry of initial encounter information into a patient electronic medical records, which are stored on a server and accessible via at least one remote computer is met by the electronic medical record that includes an allergies section (see: page 4);

--the claimed secondary triage that includes a secondary encounter, the software enabling entry of secondary encounter information into the patient's electronic medical records is met by the electronic medical record that includes an vital signs section (see: page 4);

--the claimed clinical encounter with at least one medical care provider, the software enabling entry of clinical encounter information including clinical equipment test results into the patient's electronic medical records is met by the electronic medical record that includes an Lab Work Pending section (see: page 4). In addition, Practice Today also teaches that you can easily navigate the medical information screen to add or edit new information (see: page 4 and pages 5-6);

--the claimed software enabling interpretation and management of the patient's medical records is met by a premier software system for physicians, dentists, and chiropractors that manage patient data, electronic medical records, patient billing, insurance claims, and much, much more (see: page 1, paragraph 1);

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--the claimed entry of a treatment plan formulation into the patient's electronic medical records is met by easily navigating the medical information screen to add or edit new information (see: page 4 (active medications section)); and

--the claimed software enabling pass-through billing and insurance processing is met by the integrated collection systems that allow the user to define custom procedure codes and fee schedule (see: page 5 and page 6). In addition, Practice Today teaches a premier software system for physicians, dentists, and chiropractors that manage patient data, electronic medical records, patient billing, insurance claims, and much, much more (see: page 1, paragraph 1 and page 7).

The motivation of combining the teachings of Practice Today with the system as taught by West et al. and Braun et al. are discussed in rejection of claim 3, and incorporated herein.

As per claim 42, West et al. and Braun et al. teach a network (30, Fig. 2) that may include one or more wireless communication devices referred to herein as clinician terminal (52, Fig. 2), which may be a variety of different form such as Personal Digital Assistant, Internet Protocol telephone, portable computer, etc. (see: West et al.: column 10, lines 4-11 and column 7, lines 64-67). In addition, West et al. and Braun et al. teach software running on each workstation that provides both the display (reads on "all the feature are viewable on the computer screen") and analysis of features for real-time (reads on "fast load time") and post-acquisition evaluation of measured physiological signals (see: Braun et al.: column 5, lines 45-49). Furthermore, West et al. and Braun et al. teach a patient monitor (22b, Fig. 6) (reads on "interface with a universal equipment-integrating device for linking for electronic communication with other office equipment and clinical testing equipment") that receives vital signs data and also includes an output port such as a RS-232 for connection to the terminal server (42, Fig. 6) (see: West:

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column 13, lines 16-34). Additionally, West et al. and Braun et al. teach a network (30, Fig. 2) that includes at least one server system (50, Fig. 2) connected to the wireless portion of the network (see: column 9, lines 42-45).

West et al. and Braun et al. fails to teach:

- the claimed a capture of HCFA format;
- the claimed automatic importing of demographic information into corresponding fields within the template;
- the claimed review of systems template;
- the claimed quick addition of subtemplates into a note field within the template;
- the claimed review of systems template;
- the claimed quick addition of subtemplates into a note field within the template;
- the claimed use of a diagnosis list in conjunction with the past medical history for a given patient's electronic medical records;
- the claimed list of medications;
- the claimed list of patient vital signs and laboratory values that are electronically stored within the patient's electronic medical records;
- the claimed pass through billing with automatic code linking;
- the claimed within-the-note diagnosis and a diagnosis ranking a recording of above diagnosis;
- the claimed recording of medication changes;
- the claimed recording of durable medical equipment and x-ray orders;
- the claimed cut and paste features; and

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--the claimed discharge feature for assisting with creating a hospital discharge summary.

Practice Today teaches software including:

--the claimed capture of HCFA format (see: page 1, paragraph 1);

--the claimed automatic importing of demographic information into corresponding fields within the template (see: page 4);

--the claimed review of systems template is met by Practice Today's electronic medical record for a patient that includes at least one template for patient charts (see: page 4);

--the claimed quick addition of subtemplates into a note field within the template is met by the medical information screen that allows for easy navigation to add or edit new information (see: page 4);

--the claimed use of a diagnosis list in conjunction with the past medical history for a given patient's electronic medical records is met by easily navigating the medical information screen to add or edit new information (see: page 4);

--the claimed list of medications is met by the patient medications, diagnoses, allergies, vitals, and lab tests are easily navigating in the medical information screen to add or edit new information (see: pages 5-6 and page 4 (active medications section));

--the claimed list of patient vital signs and laboratory values that are electronically stored within the patient's electronic medical records is met by the immediate access to stored clinical information such as diagnosis history, procedure history and progress notes and the ability merge patient medications, diagnoses, allergies, vitals and lab test into the patient medical note (see: page 2, paragraphs 3-4 and page 4);

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--the claimed pass through billing with automatic code linking is met by the instantly billing from the patient's note, which means merely highlighting the procedure and click "Bill" and it is done (see: page 2, paragraph 5);

--the claimed within-the-note diagnosis and a diagnosis ranking a recording of above diagnosis is met by the immediate access to stored clinical information such as diagnosis history, procedure history and progress notes and the ability merge patient medications, diagnoses, allergies, vitals and lab test into the patient medical note (see: page 2, paragraphs 3-4 and page 4);

--the claimed recording of medication changes is met by the medical information screen that allows for easy navigation to add or edit new information (see: page 4). In addition, Practice Today also teaches that you can easily navigate the medical information screen to add or edit new information (see: page 4 and pages 5-6);

--the claimed recording of durable medical equipment and x-ray orders is met by the electronic medical record that includes an Lab Work Pending section (see: page 4);

--the claimed cut and paste features is met by the use of Word Processing for Windows 95/98/00/NT (see: page 1, page 8 and page 10); and

--the claimed discharge feature for assisting with creating a hospital discharge summary is met by the hospital admission and discharge dates (see: page 4);

The motivation of combining the teachings of Practice Today with the system as taught by West et al. and Braun et al. are discussed in rejection of claim 1, and incorporated herein.

As per claim 47, Practice Today teaches the claimed note field permits the clinician to select a billing code for a particular treatment. This limitation is met by the instantly billing from

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the patient's note, which means merely highlighting the procedure and click "Bill" and it is done (see: page 2, paragraph 5).

As per claim 48, Practice Today teaches the claimed system automatically inputs a billing code for a laboratory analysis into the note field when a clinician requests the particular laboratory analysis using the system. This limitations is met by the instantly billing from the patient's note, which means merely highlighting the procedure and click "Bill" and it is done (see: page 2, paragraph 5).

As per claim 49, Practice Today teaches the claimed note field permits the clinician to select a CPT code, the system shows the clinician a secondary screen that asks for a diagnosis code to link to the CPT code, and if the two codes match an insurance company criteria for the laboratory analysis requested, the billing process proceeds, enabling the clinician give an electronic bill command to issue a bill. This limitations is met by the instantly billing from the patient's note, which means merely highlighting the procedure and click "Bill" and it is done (see: page 2, paragraph 5).

As per claim 50, West, Braun and Practice Today fail to explicitly teach the claimed if the codes do not match, a prompt is given to the medical provider identifying potential disagreement with the insurance company's policy.

However, West, Braun and Practice Today teach insurance claim processing including instantly billing from the patient's note, which means merely highlighting the procedure and click "Bill" and it is done (see: Practice Today: page 2, paragraph 5). The Examiner considers that the procedure code must be checked in order for the instantly billing step to be completed.

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Therefore, it would have been obvious to include providing prompts to the medical provider during the insurance claim process when codes do not match with the system as taught by West, Braun and Practice Today with the motivation of insuring that accurate billing information is presented to patient by the physician thereby reducing time needed by insurance company to send payment.

### ***Response to Arguments***

5. With regard to Applicant's arguments, it is respectfully submitted that the Examiner has presented new prior art from the Practice Today reference showing the correct date codes from the Wayback Machine to the amended features of amended claims 1, 36, 42, 44 and 46 and newly added claims 47-50 at the present time. As such, Applicant's remarks with regard to the application of West, Braun and Practice Today to the amended and newly added claims are addressed in the above Office Action.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37



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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (571) 272-6773.

The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Robert Morgan  
Patent Examiner  
Art Unit 3626